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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name "Alliance Defending Freedom"), ADF International has accreditation with the European Commission and Parliament, and the Organization of American States. ADF International is also a participant in the FRA Fundamental Rights Platform.

2. This report explains why the Republic of Paraguay must continue to protect the right of life of all human beings, including the unborn, and why it should, in the interest of protecting the rights and wellbeing of women and children, resist calls to liberalize access to abortion. The report also examines the issue of high levels of maternal mortality and morbidity in the country, as well as the importance of respecting parental rights in children's education.

(a) Right to Life

3. Article 4 of the 1992 Paraguayan Constitution protects the right to life of all human beings from conception, in full compliance with Article 6 of the International Covenant on Civil and Political Rights. This principle is reflected in Article 109 of the Criminal Code, which prohibits abortion – except when it is the only available option for saving the mother's life.[1] In the latter case, doctors and medical staff must nevertheless explore all viable alternatives to save both lives.

4. Pro-abortion organizations and activists argue that abortion is necessary to respect and fulfill the rights of women, as well as for the sake of improving maternal health and reducing maternal mortality and morbidity, and that Paraguay should fully decriminalize abortion and make it available on demand.

The right to life in international law

5. A so-called "right to abortion" is incompatible with various provisions of international human rights treaties, in particular provisions on the right to life.

6. Article 6(1) of the ICCPR states, "Every human being has the inherent right to life." The ICCPR's prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn.

7. Although the ICCPR allows for the death penalty to be imposed on both adult men and women, it explicitly prohibits applying the death penalty to pregnant women. Article 6(5) states that the "sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women." This clause must be understood as recognizing the unborn child's distinct identity from the mother and protecting the unborn child's right to life.

8. The *travaux préparatoires* of the ICCPR explicitly state that "the principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence

[1] Law No. 3 440/08, Modifies various sections of the Law No.1 160/97, Criminal Code.

should not be carried out on pregnant women was to save the life of an innocent unborn child".[2] Similarly, other early UN texts note that the intention of the paragraph "was inspired by humanitarian considerations and by consideration for the interests of the unborn child".[3]

9. The protection of unborn life is also affirmed in the preamble of the Convention on the Rights of the Child (CRC): "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth."

10. Article 1 of the CRC defines a child as "every human being below the age of eighteen years." This provides an upper limit as to who is a child, but does not provide a lower limit on when the status of "child" attaches. Moreover, Article 6 of the CRC holds that "States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child." Viewed in the context of the preamble, both Articles 1 and 6 of the CRC indicate recognition and protection of unborn life.

Reducing Maternal Mortality

11. Paraguay's maternal mortality ratio (MMR) in 2015 was 132 maternal deaths per 100,000 live births, down from 150 per 100,000 in 1990.[4] Although the number of maternal deaths in Paraguay have declined in recent years, it remains a pressing human rights concern.

12. The development of medical infrastructure in Paraguay has not been a high political priority, resulting in the inadequate availability of health workers required for essential health services.[5] Additionally, with minimal incentives to work in rural areas, 70% of health workers are concentrated in the area around Asunción where 30% of the population lives.[6] Access to quality health-care services is therefore less available in remote and poor areas.

13. High rates of maternal mortality have less to do with the legality of abortion than with an inability to access obstetric care, lack of information, and lack of health workers, especially in the case of women living in poverty and in remote or rural areas. Women who receive abortions will still face the same poor conditions faced by women who give birth and deal with similar complications, such as bleeding and infection. Providing more access to abortion will mean more women will suffer from abortion complications. Further, abortion can never be safe because it takes the life of the unborn child.

14. Almost all maternal deaths are preventable, particularly when skilled birth attendants are present to manage complications and the necessary drugs are available, such as

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[2] A/C.3/SR.819, para. 17 & para. 33; In accordance with the Article 32 of the Vienna Convention, the travaux préparatoires are considered to be a "supplementary means of interpretation."
[3] Commission on Human Rights, 5th Session (1949), 6th Session (1950), 8th Session (1952), A/2929, Chapter VI, Article 10.
[4] World Bank, 'Maternal Mortality Ratio (modeled estimate, per 100,000 live births)' (2015) <https://www.who.int/gho/maternal_health/countries/pry.pdf>.
[5] World Health Organisation (WHO), 'Global Health Workforce Alliance: Paraguay' <https://www.who.int/workforcealliance/countries/pry/en/>.
[6] Ibid.

oxytocin (to prevent haemorrhage) and magnesium sulphate (to treat pre-eclampsia).[7] Problems in many countries with high rates of maternal mortality and morbidity include a lack of drugs and poor infrastructure, such as no electricity or running water and inaccessibility of hospitals due to weather conditions.

15. In 2018, the World Health Organization (WHO) recommends a minimum of eight prenatal visits with trained health workers, in order to prevent, detect, and treat any health problems. In 2016, when the WHO guidelines sat at a minimum of four visits, 93.6% of women were indeed hitting this target; yet, infant and mother mortality rates still remain high.[8] These issues must be remedied, but frequent calls to increase legal abortion access as a necessary precondition to solving them are misguided.

16. In response to the high MMR, Paraguay's Ministry of Public Health and Social Welfare (MPSBS) can be commended for taking proactive steps, in collaboration with UNICEF, to improve the quality of attention to pregnancy, childbirth, postpartum, and immediate attention to the newborn. As a direct result of targeted efforts, the Alto Paraná region has experienced a 60% reduction in maternal deaths, double the percentage achieved at the national level, as well as a 20% decrease of infant mortality.[9]

17. Moreover, in 2018, with support from UNICEF, the government improved the infrastructure of six public hospitals, equipped seven medial centers and ten family health units, providing care for more than twelve of the country's districts. Additionally, eight medical hostels have been constructed in previously inaccessible rural regions. These advances have played an essential role in decreasing maternal and neonatal deaths from preventable causes. So far there has been a 30% reduction in material morality and 18.6% reduction in neonatal mortality nationwide.[10]

18. While an encouraging success rate is already evident, it is clear that the work of the government to improve maternal health is on track, and efforts along these lines should be redoubled in order to see continued decrease in maternal mortality. Rather than liberalizing abortion, Paraguay must continue to invest in social and economic development, education and violence prevention, and provide women with all the necessary support throughout and after pregnancy.

(b) Parental Rights

19. According to Article 53 of the Constitution of Paraguay, "The parents have the right and the obligation to assist, to feed, to educate, and to shelter [*amparar*] their minor children."[11]

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[7] World Health Organisation (WHO), 'Maternal Mortality' https://www.who.int/news-room/fact-sheets/detail/maternal-mortality.
[8] Global distribution of women attended at least four times during pregnancy by any provider, latest available data in the period 2010-2016. See UNICEF, 'Antenatal Care' (October 2019) <https://data.unicef.org/topic/maternal-health/antenatal-care/>. Antenatal care coverage: at least four visits. Percentage of women aged 15–49 years attended at least four times during pregnancy by any provider. The indicator refers to women who had a live birth in a recent time period, generally two years for MICS and five years for DHS.
[9] UNICEF, 'Paraguay: Zero Avoidable Deaths' https://www.unicef.org/paraguay/cero-muertes-evitables.
[10] UNICEF, 'Paraguay: Health and Nutrition' <https://www.unicef.org/paraguay/salud-y-nutricion>.
[11] Constitution of Paraguay (1992) Art 53.

20. This provision reflects the principle, laid down in UDHR Article 26, that "Parents have a prior right to choose the kind of education that shall be given to their children."[12] Article 53 is also in line with Article 24 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which codifies the authority of parents by guaranteeing their right "to ensure the religious and moral education of their children in conformity with their own convictions."[13] Likewise, the constitutional protection afforded to parental rights is consistent with CRC Article 5, which calls on states to "respect the responsibilities, rights and duties of parents" to provide "appropriate direction and guidance in the exercise by the child of the rights in the present Convention", including the right to education under CRC Article 28.[14]

21. Early sexual debut is a critical public health issue that can severely undermine the human rights and wellbeing of youth. The consequences of premature sexual activity are particularly damaging for young girls because their bodies are not developmentally prepared for pregnancy, in addition to the fact that they are more susceptible to HIV and other STIs due to biological factors.

22. Aware of the importance of protecting children from early sexual debut, Education Minister Eduardo Petta moved to block the implementation of a controversial comprehensive sexuality education (CSE) program that he found – based on findings by the Vice Minister's cabinet and the outcomes of several public consultations – to promote the sexualization of children.[15] The decision took into account the concerns expressed by civil society in Paraguay.[16]

23. Abstinence-based sexual education programs have been found to produce more effective results and less harmful outcomes than CSE.[17] Education on responsible sexual behavior should promote abstinence and fidelity, notably by informing young people about the risks associated with premature sexual activity and multiple concurrent partners, as well as encouraging healthy relationships and responsible decision-making.

(c) Recommendations

24. In light of the aforementioned, ADF International suggests the following recommendations be made to Paraguay:

    a. Resist calls to further liberalize abortion, and instead implement laws aimed at protecting the right to life of the unborn;

    b. Improve national health care infrastructure, access to emergency obstetric care and midwife training, and devote greater resources to maternal

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[12] Universal Declaration on Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) Art 26.
[13] International Covenant on Economic, Social and Cultural Rights (Adopted 16 December 1966, entered into force 3 January 1976) United Nations, 993 UNTS 3 (ICESCR) Art 24.
[14] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) UNTS 3 (CRC) Art 5.
[15] See Jeanne Smith, 'Paraguay Education Minister bans 'libertine' gender ideology course in public schools' *LifeSite News* (29 March 2019) <https://www.lifesitenews.com/news/paraguay-education-minister-bans-libertine-gender-ideology-course-in-public-schools>.
[16] Ibid.
[17] Ericksen, I. H. and Weed, S. E. 'Re-Examining the Evidence for School-based Comprehensive Sex Education: A Global Research Review' (2019) 34(2) Issues in Law and Medicine, 161.

health, especially in rural areas;

c. Redouble efforts to ensure that the responsibilities, rights, and duties of parents and legal guardians to provide appropriate direction and guidance to their children is respected at all levels, in accordance with the Convention on the Rights of the Child;

d. Continue to ensure that parents are able to opt their children out of education programs which violate their religious or moral convictions, including school-based sex education, in accordance with international human rights norms and standards;

e. Ensure that sexual education programmes are aimed at delaying sexual debut and promoting responsible sexual behavior and healthy relationships.

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